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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Toll Free Service Access Codes

CC Docket No. 95-155

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COMMENTS OF BELL ATLANTIC

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COMMENTS OF BELL ATLANTIC

Summary

The Bell Atlantic telephone companies<sup>1</sup> applaud the Commission's initiation of this proceeding, designed to establish rules for the opening of new toll-free dialing codes. If the industry knows from the outset what the rules are, there will be less public confusion, fewer disputes and controversies, and greater cooperation among service providers. However, the Commission should not lightly substitute its judgment for consensus guidelines and procedures adopted by the telecommunications industry or try to use its regulation of common carriers as a substitute for consumer protection and unfair competition laws to control the way carriers' customers use - or misuse - toll-free service.

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<sup>1</sup> The Bell Atlantic telephone companies serving New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia and the District of Columbia.

Comments

Bell Atlantic provides these comments to the issues raised in the Notice.

Efficient use of toll-free numbers. Bell Atlantic supports the Commission's proposal to require that a RespOrg must have an affirmative request from a customer before assigning a toll-free number to a customer.<sup>2</sup> However, any rule adopted should give the RespOrg the ability to reserve a number if it intends to use that number in a proposal to a specific customer or potential customer.

Bell Atlantic does not support the escrow requirements suggested by the Commission as a means of discouraging warehousing of toll-free numbers.<sup>3</sup> These payments, which would be required of all providers, make no distinction between the bad RespOrgs and the good ones, between those which have abused the system and those which have not. There is no reason to believe that the abusers are cash-poor carriers which could not afford the escrow payments, so there is no reason to believe that this requirement would curtail abuses. An escrow requirement would serve only to penalize the non-abusers.

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<sup>2</sup> Notice, ¶ 13.

<sup>3</sup> Id. at ¶¶ 14-16.

The Commission proposes to reduce from 60 to 45 or 30 days the time a toll-free number can be in reserved status.<sup>4</sup> Bell Atlantic does not object to such a change. However, this change would have little effect, because RespOrgs can simply renew number reservations without limitation. To achieve its aim, the Commission should impose an absolute limit of 120 days that a number can be in reserved status, whether or not it also reduces the initial reservation period.

The amount of time that a number can be assigned but not working should not be reduced to less than six months. This is because end user customers sometimes need more than the four months proposed by the Commission<sup>5</sup> to build facilities or do other work to get their toll-free business operations ready.

The Commission also proposes to require that the time periods agreed to by the industry for "aging" toll-free numbers be permanently changed to mirror the "aging" intervals imposed by the Commission last summer as an emergency measure to delay the exhaust of the 800 code.<sup>6</sup> The periods in the Guidelines were established by the industry as a whole after careful consideration and debate, Bell Atlantic believes that they properly take into account factors such as the financial impact on users of newly disconnected numbers

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<sup>4</sup> *Id.* at ¶ 18.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at ¶ 19.

and the staleness of advertising materials. Because the number of new toll-free codes and the industry procedures and guidelines make it unlikely that the emergency situation that existed with the 800 code will be repeated, the Commission should defer to the industry's expertise and judgment in this matter.

PIN technology might be useful in some applications, such as toll-free use by paging companies where the caller already must dial extra digits to complete the call. However, the 800 SMS is currently not equipped to handle ten-digit numbers plus PIN's. It would be possible, of course, to modify the system, but that work could begin only after the industry had agreed on (or the Commission had prescribed) its features.

Mechanics of opening new toll-free codes. Bell Atlantic does not support the changes to the reservation Guideline mentioned in paragraph 23 of the Notice, because in these areas the existing provisions are the best accommodation of the needs of all service providers.

The Commission seems to think that the use of the so-called "mechanized interface" between the RespOrg and the SMS gives that RespOrg an advantage over other RespOrgs and the capacity to engage in number reservation practices that other RespOrgs cannot duplicate.<sup>7</sup> The type of interface is not the problem, however - the problem is the way in which the interface is used. The Bell

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<sup>7</sup>

*Id.* at ¶ 23.

companies developed the mechanized interface at the request of RespOrgs that wanted to link their own internal service order systems with the SMS. These RespOrgs benefit by having to enter an order only once and have that order processed through both its own systems and the SMS. Any RespOrg, however, can connect a computer to its dial-up line to the SMS and make reservations or process other transactions electronically, every bit as fast as the users of the mechanized interface. These RespOrgs can also use run programs on these computers that search for numbers and reserve them in mass transactions.

Bell Atlantic supports the plan to open new toll-free codes gradually over a period of time to prevent a run on the new numbers.<sup>8</sup> There should be no need for the Commission to oversee other details of opening the 888 code or future toll-free codes. Bell Atlantic would support oversight from the North American Numbering Council.

Bell Atlantic agrees with the Commission's proposal that RespOrgs should be permitted to reserve numbers in a new toll-free code 45 days before general availability, but not allowing those reservations to change to working status until the availability date.<sup>9</sup> It would also be appropriate to limit the quantity of numbers that can change from reserved to assigned to working status

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<sup>8</sup> *Id.* at ¶ 24.

<sup>9</sup> *Id.* at ¶ 25.

in one day to 100,000. This limitation would avoid any requirement for Bell Atlantic to expand the capacity of the data links to the SMS for the one-time downloading of 888 records.<sup>10</sup>

Because Bell Atlantic will use the same network architecture for 888 access as it now uses for 800 access, Bell Atlantic's access times for 888 numbers will comply with the standards established by the Commission for 800 access service. Based upon the latest commitments from Bell Atlantic's SSP suppliers, Bell Atlantic will also meet the access time standard for other toll-free codes opened after February 1997. However, because of limitations with one of these manufacturers, Bell Atlantic might not be able by that time to route all toll-free calls over the same trunks.

The Bell companies currently jointly administer the 800 service management system.<sup>11</sup> Bell Atlantic, for its part, is willing to work with the other Bell companies to provide the specific reports suggested by the Commission.<sup>12</sup>

Warehousing of numbers. Bell Atlantic agrees with the Commission's conclusion that warehousing numbers is an unreasonable practice and should not be permitted.<sup>13</sup> However, as recent events

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<sup>10</sup> *Id.*

<sup>11</sup> The Commission required the Bell companies to provide tariffed SMS access in 1993. DSMI is a wholly owned subsidiary of Bellcore, which is wholly owned by the Bell companies.

<sup>12</sup> Notice, ¶ 31.

<sup>13</sup> *Id.* at ¶ 32.



have demonstrated, warehousing is a hard rap to prove. Bell Atlantic does not oppose the measures proposed by the Commission,<sup>14</sup> but is skeptical that they will have much effect at deterring the committed warehouser.

Vanity numbers. Bell Atlantic has no way of knowing the quantity of "vanity" 800 numbers in use, either as an 800 access provider and as one of the providers of SMS access. Even as a RespOrg, Bell Atlantic does not know how 800 service customers are using their numbers – for example, whether they are promoting the words that the digits spell. Needless to say, there are probably many verbally significant 800 numbers that are not being used in that way; therefore, even some estimate based on the number of verbally significant combinations would be misleading.

It is likely that unscrupulous businesses will try to capitalize on the public's confusion by employing misleading or deceptive 888 numbers. It is also likely that some will attempt to create additional confusion. However, injured businesses and consumers have remedies for such activities under the intellectual property, unfair competition and consumer protection laws. There is no reason for the Commission to try to use the Communications Act and its power to regulate common carriers to constrain the conduct of telephone service customers, and Bell Atlantic submits

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<sup>14</sup> *Id.* at ¶¶ 33-34.

that it would be inappropriate for the Commission to attempt to do so.

Giving existing customers a right of first refusal on numbers in new toll-free codes is an inefficient use of limited numbering resources. It is also bad precedent, as it is inconsistent with the general rule that a telephone service subscriber has no right to or interest in its particular telephone number.

Even if the Commission offers some right of first refusal for 888 numbers, it should not extend that right when new toll-free codes are opened. By the time that additional codes are needed, the public will have been made aware of the fact that there are now multiple kinds of toll-free numbers and should be expected to take care when copying numbers and dialing. To perpetuate the ability of an 800 customer to lock up numbers in succeeding codes is not a good use of limited numbering resources.

Any proposal based on SIC codes<sup>15</sup> is doomed to failure in part because of the nature of those codes. First, not all types of businesses have SIC codes, especially service businesses.<sup>16</sup> Even in industries covered by the SIC system, the system does not have the accuracy and precision that the use of four-digit codes might suggest to the casual observer, a fact that has been recognized by

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<sup>15</sup> *Id.* at ¶¶ 44-45.

<sup>16</sup> DEPARTMENT OF COMMERCE, 1994 U.S. INDUSTRIAL OUTLOOK, at 1.

the Department of Commerce.<sup>17</sup> Any business with an intent to defraud could readily get around any SIC-code-based system. Whatever the cost of developing the necessary systems and administering any plan will surely be greater than the negligible public benefit.

The miscellaneous proposals discussed in the Notice<sup>18</sup> should not be adopted. Delaying assignment of "vanity" numbers will only defer possible misuse -- it will not prevent it. The "gateway intercept" would be annoying to callers, especially to the millions of callers who were calling the correct number, and would add to the costs of opening the new toll-free codes. Moreover, interposing an intercept on certain transactional 800 calls could cause the caller's CPE to time out and drop the call. Giving business customers the benefit of the preferred 800 numbers and consigning others to the less attractive 888 would apparently require all existing non-business users to change their current numbers, a prospect that the Commission rejected as unlawfully discriminatory in a different context.<sup>19</sup>

The Notice reflects a concern for toll-free service customers who have numbers that are similar to high volume numbers

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<sup>17</sup> ECONOMIC CLASSIFICATION POLICY COMMITTEE, BUREAU OF ECONOMIC ANALYSIS, DEP'T OF COMMERCE, CONCEPTUAL ISSUES, ISSUES PAPER No. 1 (Feb. 8, 1993).

<sup>18</sup> Notice, ¶ 46.

<sup>19</sup> *of Proposed 708 Relief Plan and 630 Numbering Plan Area Code by Ameritech--Illinois*, 10 FCC Rcd 4596 ¶ 27 (1995).

in another toll-free code.<sup>20</sup> This is not a trivial concern, as some residential customer would surely be surprised to receive American Express' 800 bill. The 800 SMS, however, is just an order processing system and is not in a position to identify high volume toll-free numbers. If the industry agreed to (or the Commission required) a system of identifying these high volume numbers, it would be possible to modify the 800 SMS to add a "high volume" indicator to the 800/888 record that any RespOrg would have access to.

SMS administration. The Bell companies jointly administer the 800 service management system. As the Commission will recall, the Bell companies tried several years ago to give up this function and to turn it over to an entity created for that purpose by the entire industry.<sup>21</sup> At that time, the Commission was not supportive of those efforts, and they came to naught. If the Commission now wants to revive the Bell companies' earlier proposal, Bell Atlantic would have no objection.

Public awareness. New dialing arrangements will inevitably confuse consumers. Although there is no way to eliminate confusion completely, the industry -- both toll-free service and access providers -- must collaborate on a public

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<sup>20</sup> Notice, ¶ 47.

<sup>21</sup> See *Provision of Access for 800 Service*, 8 FCC Rcd 1423 ¶ 23 (1993).

awareness campaign. Bell Atlantic is featuring the 888 toll-free code in its publicity about interchangeable NPA's. In addition, it plans to issue press releases and distribute brochures specifically about 888 dialing.

The Commission, as well as state regulatory agencies, must play an active role in this effort. Consumer advisories issued by the Commission attract far more attention than press releases from Bell Atlantic.

Circuit breakers. Circuit breakers should be unnecessary. There was a run on 800 numbers earlier this year because that resource was becoming scarcer and scarcer, and some RespOrgs wanted to make sure that they had what they needed when the numbers ran out. If the industry is able to provide service using all the identified toll-free codes by early 1997 as the Commission proposes, this situation should not repeat itself.<sup>22</sup>

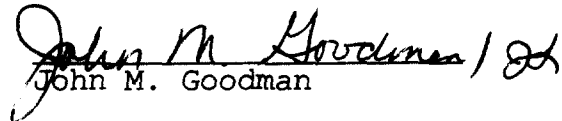
Tariffs. The opening of the 888 code for toll-free access is not the offering of a new service. Bell Atlantic, therefore will not be filing an incremental cost study or any new rate elements. In fact, Bell Atlantic plans to offer access for 888 numbers under the same terms, conditions and rates as the existing toll-free access service. To the extent that the

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<sup>22</sup> Moreover, if other exchange carriers use the AIN technology that Bell Atlantic believes to be the best way to provide access for toll-free codes, then new codes can be opened in a matter of weeks.

Commission mandates any expenditures in connection with the opening of the 888 code, Bell Atlantic would expect to be able to receive exogenous treatment for such costs. Because no decision has been rendered in the original 800 tariff investigation proceeding, Bell Atlantic will not be filing any exogenous cost data until that proceeding has been completed.

Respectfully submitted,

  
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